THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.2963 OF 1999

DATED:16.2.2006

Between:

Vankayalapati Kanta Rao and another

…Petitioners

And

The District Collector, Khammam District

Khammam and others

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.2963 OF 1999

ORDER:

First petitioner is owner of land admeasuring Acs.6.06 gts. in S.Nos.135, 136 and 137 and second petitioner is owner of land admeasuring Ac.6.35 gts. in S.No.106/A of Karayagudem Village, Penuballi Mandal, Khammam District. The land to an extent of Ac.0.11 gts. belonging to the first petitioner, and an extent of Acs.0.06 gts. belonging to second petitioner was acquired for 10th distributory canal of Lankasagar Project in the year 1968, and after due process of law amount was already paid to the petitioners. The petitioners allege that in the year 1998 the fourth respondent in the guise of undertaking repairs to 10th distributory canal of Lankasagar Project started laying road on the bank of the canal by encroaching

upon the petitioners' land and also removed teak plants, mango, tamarind, dirsina, and cashew trees etc. The petitioners allege that the respondents did not initiate proceedings under the Land Acquisition Act, 1894 (the Act, for brevity) and therefore they filed the instant Writ Petition seeking a Writ of Mandamus declaring the action of the respondents in laying road by cutting trees belonging to the petitioners as illegal and arbitrary. They also seek a direction to respondents to pay adequate compensation by initiating land acquisition proceedings.

In the counter affidavit filed by the third respondent it is stated that the fourth respondent is responsible for maintenance of 10th distributory canal of Lankasagar Project. The fourth respondent took up the repairs and as part of the repairs, ayacut road was formed on the right side canal bank not exceeding 33 feet wide from the center of the canal which was acquired at the time of formation of the canal. The allegation that the respondents encroached upon the petitioners land and forcibly occupied the land for laying road is denied. No reply affidavit is filed denying the counter averments.

It is not denied that if the respondents take the land of the petitioners in excess of 33 feet from the center of the canal, the same would be illegal and in contravention of the provisions of the Act. There cannot be any denial. Whether the petitioners' land has already been acquired by fourth respondent for laying road and whether the respondents laid road on the bank of the canal in excess of 33 feet from the center of the canal, are questions of fact which cannot be decided in this Writ Petition. If the petitioners have any grievance they may approach the respondents for appropriate survey in the matter. In this Writ Petition no relief can be granted.

The Writ Petition is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

16.2.2006

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